

LINK FUND SOLUTIONS LIMITED

THE SCHEME CREDITORS
(as defined in the Scheme)

AND

DAN SCHWARZMANN AND NIGEL RACKHAM
(as Scheme Supervisors)

THIRD PARTY LITIGATION DEED

This Deed is made on the Effective Time, and is made

BETWEEN:

- (1) **THE SCHEME CREDITORS**, as defined in the Scheme and each acting by its agents and attorneys as appointed pursuant to the Scheme;
- (2) **LINK FUND SOLUTIONS LIMITED**, a private limited company with registered number 01146888 and whose registered address is 6th Floor 65 Gresham Street, London, United Kingdom, EC2V 7NQ ("**LFSL**"); and
- (3) **DAN SCHWARZMANN** and **NIGEL RACKHAM**, each of PricewaterhouseCoopers LLP, 1 Embankment Place, London, WC2N 6RH (the "**Scheme Supervisors**"),

(together the "**Parties**").

RECITALS:

- (A) The Scheme was approved by the statutory majority of Scheme Creditors, was sanctioned by the Court, and became effective on the Effective Time.
- (B) All Scheme Claims (including, without limitation, claims arising out of or in connection with LFSL's role as ACD of the WEIF) have been released in accordance with the Scheme.
- (C) LFSL will contribute all or substantially all of its assets, other than those required to meet its Excluded Liabilities, to the Settlement Account for distribution to the Scheme Creditors in accordance with the Scheme.
- (D) The Scheme Creditors shall remain entitled to commence or continue Third Party Proceedings with a view to recovering damages or other compensation or contributions from Third Parties (but not, for the avoidance of doubt, from LFSL or any other Released Party). LFSL may face Contribution Claims if one or more Scheme Creditors succeed in whole or in part in any Third Party Proceedings.
- (E) LFSL intends to distribute its assets to Scheme Creditors in accordance with the Scheme without undue delay.
- (F) The Parties do not intend that any Contribution Liability should result in LFSL's insolvency.

IT IS AGREED as follows:

1. Definitions

1.1 In this Deed, the following terms have the following meanings:

"**Affected Scheme Creditor**" has the meaning given to that term in Clause 11.7(b) (*Procedure*).

"Business Day" means a day, other than a Saturday or a Sunday, on which banks are open for general business in London.

"Confidential Information" means any information, documents, or materials provided by a Scheme Creditor to LFSL pursuant to Clause 3.3, but does not include information that:

- (a) is or becomes public information other than as a direct result of any breach by LFSL of this letter;
- (b) is identified in writing at the time of delivery as non-confidential; or
- (c) is known by LFSL before the date the information is disclosed to LFSL under this Deed or is lawfully obtained by LFSL after that date, from a source which is, as far as LFSL is aware, unconnected with the Scheme Creditor and which, in either case, as far as LFSL is aware, has not been obtained in breach of, and is not otherwise subject to, any obligation of confidentiality.

"Contribution Claim" means any claim by a Third Party against LFSL in respect of a Third Party Proceeding.

"Contribution Liability" means, in relation to a Contribution Claim, LFSL's Liability (including in respect of any costs and expenses) to the Third Party in respect of the matters arising out of that Contribution Claim, including, but not limited to, Liabilities arising by virtue of contract, common law, the rules of equity or the Civil Liability (Contribution) Act 1978.

"Deed of Trust" means a deed of trust in the form set out at Schedule 1 (*Form of Deed of Trust*).

"Indemnified Liability" has the meaning given to that term in the Scheme.

"Effective Time" has the meaning given to that term in the Scheme.

"Escrow Account" means an escrow account with a bank in the United Kingdom in the name of LFSL or an Escrow Agent.

"Escrow Agent" means a person who is not a Party and who is regularly engaged in the provision of escrow agency services.

"Escrow Costs" means the costs of appointing an Escrow Agent and opening, maintaining and closing an Escrow Account (including, without limitation, amounts paid by LFSL and which may subsequently be reimbursed in accordance with Clause 7.5).

"Excluded Liabilities" has the meaning given to that term in the Scheme.

"Expert" has the meaning given to that term in Clause 11.3.

"Expert Determination" means the process set out in Clause 11 (*Expert Determination*).

"FOS" means the Financial Ombudsman Service, a company registered with company number 3725015 at Exchange Tower, Harbour Exchange Square, London, E14 9SR.

"LCIA" means the London Court of International Arbitration.

"Liability" means any liability, duty or obligation of a person, whether it is present, future, prospective or contingent, whether its amount is fixed or undetermined, whether or not it involves the payment of money and whether it arises at common law, in equity or by statute, in England and Wales, Scotland or Northern Ireland or in any other jurisdiction, or in any other manner whatsoever.

"Limitation Period" means the period specified in section 10 of the Limitation Act 1980.

"Pre-Existing Funding Arrangement" means a litigation funding arrangement for Proceedings against Third Parties entered into on arms' length terms between a Relevant Scheme Creditor (and/or the Relevant Scheme Creditor's Representative, as applicable) and one or more litigation funders, entered into prior to the Effective Time.

"Proceedings" means any process, action, step, or other legal proceeding including, without limitation, any request for relief or any other determination from any court or tribunal in any jurisdiction, any demand, arbitration, alternative dispute resolution, judicial review, adjudication, referral to the FOS, execution, diligence, seizure, distraint, forfeiture, re-entry, lien, enforcement of judgment or enforcement of any security interest.

"Proceeds" means collectively:

- (a) any and all gross monetary awards, damages, recoveries, judgments or other property or value recovered by or on behalf of any Relevant Scheme Creditor on account or as a result or by virtue (directly or indirectly) of any Proceedings, whether by way of negotiation, litigation, mediation, settlement, adjudication, arbitration or otherwise; and includes all of the Relevant Scheme Creditor's legal and/or equitable rights, title and interest in and/or to any of the foregoing, whether in the nature of ownership, lien, security interest or otherwise;
- (b) any consequential, rescissionary, punitive, exemplary damages, pre-judgment interest (including damages comparable to pre-judgment interest), post-judgment interest, penalties, and lawyers' fees and other fees and costs recovered on account thereof;
- (c) any recoveries against lawyers, accountants, experts, directors, officers or other related parties in connection with any of the foregoing or the pursuit of the Proceedings; and
- (d) without limiting any of the foregoing, any money value conveyed to any Scheme Creditor in connection with any Proceedings or the resolution or termination thereof.

"Release Deed" has the meaning given to that term in the Scheme.

"Released Party" has the meaning given to that term in the Scheme.

"Relevant Contribution Claim" means a Contribution Claim arising in relation to Relevant Proceedings.

"Relevant Proceedings" has the meaning given to that term in Clause 4.1 (*Relevant Proceedings*).

"Relevant Scheme Creditor" has the meaning given to that term in Clause 4.1 (*Relevant Proceedings*).

"Representative" means a person's directors, officers, employees, agents, auditors, insurers, professional advisers, liquidators, administrators, trustee in bankruptcy, or executors, and includes (in the case of LFSL) the Scheme Supervisors.

"Scheme" means the scheme of arrangement proposed by LFSL pursuant to claim number CR-2023-005565, which was approved by the statutory majority of Scheme Creditors and sanctioned by the Court (as defined therein).

"Scheme Claim" has the meaning given to that term in the Scheme.

"Scheme Creditor" has the meaning given to that term in the Scheme.

"Settlement Account" has the meaning given to that term in the Scheme.

"Termination Date" has the meaning given to that term in the Scheme.

"Third Party" means a person other than LFSL.

"Third Party Proceedings" means Proceedings commenced or continued by or on behalf of a Scheme Creditor:

(a) against one or more Third Parties; and

(b) which relate to the WEIF or a Indemnified Liability,

and includes (without limitation, and for the avoidance of doubt) Relevant Proceedings.

2. **Construction and interpretation**

2.1 Clause and schedule headings in this Deed are included for convenience only and shall be ignored in its interpretation.

2.2 In this Deed, unless the context otherwise requires:

(a) references to clauses are references to clauses of this Deed;

(b) references to a period of months starting on one day in a calendar month shall end on the numerically corresponding day in the relevant month thereafter, except that:

(i) if the numerically corresponding day in the relevant month is not a Business Day, the period shall end on the next Business Day in that calendar month, if there is one, or if there is not, on the immediately preceding Business Day; and

- (ii) if there is no numerically corresponding day in that relevant month, the period shall end on the last Business Day in that same calendar month;
- (c) references to a 'person' include references to an individual, firm, partnership, company, corporation, unincorporated body of persons or any state or state agency;
- (d) references to a statute or a statutory provision include the same as subsequently modified, amended or re-enacted from time to time;
- (e) the singular includes the plural and vice versa and words importing one gender shall include all genders;
- (f) the word 'including' shall be deemed to mean 'including, without limitation';
- (g) references to a period of days shall include Saturdays, Sundays and public holidays and where the final day falls on a Saturday, Sunday or public holiday, the next Business Day after such date; and
- (h) references to time shall be to the time in London, United Kingdom.

3. Third Party Proceedings

- 3.1 Subject to the provisions of this Deed, each Scheme Creditor shall be entitled to commence or continue Third Party Proceedings, whether individually or with one or more other Scheme Creditors or other persons.
- 3.2 Nothing in this Deed shall:
 - (a) require any Scheme Creditor to commence or continue any Third Party Proceedings;
 - (b) give LFSL any right to determine the conduct of Third Party Proceedings by a Scheme Creditor, including without limitation to take any decision relating to whether to commence, continue, or settle Proceedings;
 - (c) prevent LFSL from taking such steps, at its own cost and expense, as it may deem necessary or appropriate in relation to any Third Party Proceedings, including (without limitation) appearing or making any representations in those Third Party Proceedings; or
 - (d) prevent LFSL, or any person lawfully entitled on its behalf, from commencing or continuing Proceedings against any Third Party.
- 3.3 If a Scheme Creditor commences or continues Third Party Proceedings, it shall at no cost to or recoverable from LFSL:
 - (a) notify LFSL of the commencement or continuation of such Proceedings not later than 20 Business Days after:
 - (i) the date on which the Proceedings are commenced, in the case of Proceedings which are commenced after the Effective Time; or

- (ii) the Effective Time, in the case of Proceedings which were commenced prior to the Effective Time and which are being continued after the Effective Time;
 - (b) provide to LFSL details of any Pre-Existing Funding Arrangement;
 - (c) upon LFSL's written request, provide to LFSL any pleadings, applications, statements of case, witness statements and any other documents that LFSL may request (acting reasonably) promptly upon delivery of the same to any other party in the Proceedings or receipt of the same from any such other party;
 - (d) notify LFSL of any order, judgment, decision, award or other determination in the Third Party Proceedings (whether interim or final), promptly upon such order, judgment, decision, award or other determination being made; and
 - (e) provide to LFSL details of the postal and e-mail addresses at which notices in connection with the relevant Third Party Proceeding may be left or delivered in accordance with this Deed.
- 3.4 If a Scheme Creditor fails to notify LFSL of the commencement or continuation of any Third Party Proceedings in accordance with, or otherwise fails to provide LFSL with the information requested or required to be provided to LFSL pursuant to, Clause 3.3 (*Third Party Proceedings*), LFSL shall be entitled to commence Proceedings against the Scheme Creditor (at the Scheme Creditor's cost), to obtain such information.
- 3.5 LFSL shall not be responsible for any cost, expense, loss or Liability (including, without limitation, any Liability for adverse costs) incurred by a Scheme Creditor or any of its Representatives in connection with any Third Party Proceedings. All costs associated with commencement or continuation of Proceedings in respect of the Third Party Proceedings shall be for the account of the Scheme Creditor only (including, for the avoidance of doubt, in respect of any amount paid to LFSL in accordance with Clause 7.5 below), and shall not be for the account of LFSL.
4. **Relevant Proceedings**
- 4.1 LFSL may, at any time and by notice to the Scheme Creditor(s) bringing the Third Party Proceedings (each such Scheme Creditor being a "**Relevant Scheme Creditor**" in relation to those Third Party Proceedings), designate any Third Party Proceedings as "**Relevant Proceedings**" if:
- (a) one or more parties in the Third Party Proceedings have brought, indicated an intention to bring, and/or reserved their right to bring, a Contribution Claim against LFSL in connection with the Third Party Proceedings; or
 - (b) LFSL otherwise believes, acting reasonably, that one or more parties in the Third Party Proceedings may bring a Contribution Claim against LFSL.
- 4.2 A Scheme Creditor may dispute LFSL's designation of Third Party Proceedings as Relevant Proceedings by giving notice in writing to LFSL within 30 Business Days of LFSL giving notice pursuant to Clause 4.1 above, in which case the question of whether the Third Party Proceedings are Relevant Proceedings shall be determined in accordance with Clause 11 (*Expert Determination*). If no such notice is received,

LFSL's determination as to whether Third Party Proceedings are Relevant Proceedings shall be final and binding.

5. Declaration of trust

- 5.1 Each Relevant Scheme Creditor shall hold all of its right, title, and interest in and to any Relevant Proceedings, including (without limitation) any Proceeds resulting from any Relevant Proceedings on trust for LFSL and such Relevant Scheme Creditor, for application in accordance with Clause 7.5 below.
- 5.2 For the purpose of giving effect to Clause 5.1 above each Scheme Creditor shall execute a Deed of Trust in relation to any Relevant Proceedings promptly (and in any case within 5 Business Days) upon being notified that any Third Party Proceedings are Relevant Proceedings.
- 5.3 In order to secure the performance of its obligations under Clause 5.2 above, each Scheme Creditor irrevocably appoints LFSL as its attorney to execute the Deed of Trust on its behalf.

6. Escrow Account

- 6.1 Promptly following the designation of any Third Party Proceedings as Relevant Proceedings, LFSL shall:
 - (a) open and cause to be maintained an Escrow Account;
 - (b) engage an Escrow Agent on arm's length terms to oversee the operation of the Escrow Account in accordance with this Deed; and
 - (c) notify the Relevant Scheme Creditors of the details of the Escrow Account and the Escrow Agent.
- 6.2 Each Relevant Scheme Creditor shall pay any Proceeds of any Relevant Proceedings, and shall procure that any Representative that receives any Proceeds of any Relevant Proceedings pays such Proceeds, to the Escrow Account.
- 6.3 If a Relevant Scheme Creditor receives Proceeds in a form other than cash, it shall promptly convert the same into cash and pay the Proceeds into the Escrow Account.
- 6.4 Each Relevant Scheme Creditor shall comply with all such "*know your client*" and anti-money laundering requirements as LFSL and/or the Escrow Agent may reasonably require (including, without limitation, to satisfy the requirements of any bank with whom the Escrow Account is opened).

7. Application of Proceeds

- 7.1 With respect to any Relevant Proceedings, the "**Contribution Claim Determination Date**" shall occur:
 - (a) on the date on which the Limitation Period expires with respect to all Relevant Contribution Claims arising from the Relevant Proceedings, if no Third Party

has commenced Proceedings in relation to any Relevant Contribution Claim by such date; or (in any other case)

- (b) the date on which a Contribution Claim is finally determined by a court or arbitral tribunal of competent jurisdiction, or is otherwise agreed pursuant to a binding settlement with LFSL (the amount so determined or settled, an "**Established Contribution Liability**").

7.2 LFSL shall promptly notify each Relevant Scheme Creditor of the occurrence of the Contribution Claim Determination Date and the amount (if any) of any Established Contribution Liability. If a Scheme Creditor:

- (a) asserts that the Contribution Claim Determination Date has occurred and LFSL has not given notice; or
- (b) does not accept the amount of any Established Contribution Liability as notified by LFSL,

it may give notice to LFSL requiring the matter to be determined by Expert Determination.

7.3 If LFSL gives notice of the amount of any Established Contribution Liability, each Relevant Scheme Creditor shall notify LFSL within 20 Business Days of the amount owing by the Relevant Scheme Creditor (either directly, or via a back to back arrangement between the Relevant Scheme Creditor and the Relevant Scheme Creditor's Representative) under any Pre-Existing Funding Arrangement, and provide LFSL with a calculation showing in reasonable detail how such amount was determined. If:

- (a) no such notice is given, the amount owing under any Pre-Existing Funding Arrangement shall be deemed to be zero;
- (b) LFSL accepts the amount that a Relevant Scheme Creditor asserts is owing under a Pre-Existing Funding Arrangement, it shall give notice to the Relevant Scheme Creditor as soon as reasonably practicable; or
- (c) LFSL does not accept the amount that a Relevant Scheme Creditor asserts is owing under a Pre-Existing Funding Arrangement (including, without limitation, because it does not accept that a Pre-Existing Funding Arrangement is in place), it may require the matter to be determined by Expert Determination by giving notice to the Relevant Scheme Creditor(s) within 20 Business Days.

7.4 Once the amount outstanding under all Pre-Existing Funding Arrangements and all Established Contribution Liabilities in relation to any Relevant Proceedings have been determined, LFSL shall (as soon as reasonably practicable) calculate the Escrow Costs, acting reasonably and in consultation with the Scheme Supervisors, it being understood and agreed that:

- (a) the Escrow Costs may include amounts that have been prefunded by LFSL; and
- (b) LFSL may pre-agree a reasonable estimate of future costs with the Escrow Agent.

7.5 Promptly following calculation of the Escrow Costs, LFSL shall:

- (a) procure that the Proceeds standing to the credit of the Escrow Account shall be applied in the following order of application, with each successive item being discharged in full before any amount is applied to the next item:
 - (i) *first*, in satisfaction of the Escrow Costs;
 - (ii) *second*, in satisfaction of any amount owing under a Pre-Existing Funding Arrangement;
 - (iii) *third*, to LFSL, up to the amount of any Established Contribution Liability; and
 - (iv) *fourth*, the balance, to the Relevant Scheme Creditors; and
- (b) notify each Relevant Scheme Creditor of the amount of the Escrow Costs, the amount owing under Pre-Existing Funding Arrangements, the amount of any Established Contribution Liability, and the amount resulting to such Relevant Scheme Creditor in accordance with this Clause 7.5.

8. Confidentiality

8.1 LFSL shall keep all Confidential Information confidential, and shall not disclose it to anyone, save to the extent permitted by Clause 8.2 below, and shall ensure that all Confidential Information is protected with security measures and a degree of care that would apply to its own confidential information.

8.2 Notwithstanding Clause 8.1 above, LFSL may disclose such Confidential Information as it considers necessary or appropriate:

- (a) to any of its affiliates and any of its or their Representatives if any person to whom the Confidential Information is to be given pursuant to this paragraph (a) is informed of its confidential nature, except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by requirements of confidentiality in relation to the Confidential Information; or
- (b) to any person requested or required by any Court, tribunal, governmental, banking, taxation or other regulatory authority or similar body (including, without limitation, the Financial Conduct Authority), the rules of any relevant stock exchange (including, without limitation, the Australian Stock Exchange) or pursuant to any applicable law or regulation.

9. Notices

9.1 Any communications to be made under or in connection with this Deed shall be made in writing and, unless otherwise stated, may be made by hand, by first class post, or by email.

9.2 The address and email address of each Party for any communication or document to be made or delivered under or in connection with this Third Party Litigation Deed is:

(a) in case of LFSL:

By post: Link Fund Solutions Limited
65 Gresham Street
London EC2V 7NQ

By email: LFSLWEIF.scheme@linkgroup.co.uk

(b) in the case of a Scheme Creditor, to the address or email address notified by the Scheme Creditor to LFSL.

9.3 Where two or more Scheme Creditors jointly commence or continue Third Party Proceedings, they may appoint a firm of solicitors or other legal representative (a "**Legal Adviser**") to send and receive notices in connection with Third Party Proceedings on behalf of all such Scheme Creditors. Any notice delivered to or by a Legal Adviser shall constitute notice to or by each Scheme Creditor that has appointed such Legal Adviser.

9.4 Any notice given under this Deed shall be deemed received:

- (a) if delivered by hand, on the date on which it was delivered;
- (b) if delivered by first class post, on the date falling 3 Business Days after the date on which it was sent; and
- (c) if sent by email, at the time that of sending,

provided that any notice delivered after 5.00 p.m. or on a day other than a Business Day shall be deemed to be received at 9.00 a.m. on the next following Business Day.

10. **Releases**

This Deed is without prejudice to the Scheme and the Release Deed. Nothing in this Deed shall permit any Scheme Creditor to take any step, including (without limitation) to bring any Proceedings in breach of the Scheme or the Release Deed.

11. **Expert Determination**

11.1 If any matter falls to be determined in accordance with this Clause 11 (*Expert Determination*) LFSL shall apply, in writing, to the LCIA to appoint an Expert to decide the matter (the "**Application**").

11.2 The Expert Determination shall be administered by the LCIA, which shall also be the appointing authority for the purpose of appointing the Expert and for determining any challenge to the Expert brought in accordance with this Clause.

The Expert

11.3 LFSL and the Affected Scheme Creditor(s) may (but shall not be required to) nominate up to 5 candidate Experts each for consideration by the LCIA within 15 Business Days of the Application. The LCIA shall endeavour to appoint an expert (the "**Expert**") from the candidates nominated within 15 Business Days of receipt of the Reply or as soon as

reasonably practicable thereafter. If no candidates are nominated, the LCIA shall choose such Expert as it deems appropriate.

- 11.4 The Expert shall be a King's Counsel or retired judge of the English High Court.
- 11.5 All communications concerning the Expert Determination, shall be copied to the LCIA and, once appointed, to the Expert.
- 11.6 An Expert may be challenged by LFSL or an Affected Scheme Creditor if circumstances exist that give rise to justifiable doubts as to their impartiality or independence. In such circumstances the challenge shall be brought, by written notice to the LCIA, within 10 days of the appointment of the Expert or within 10 days of the challenging party becoming aware of the circumstances giving rise to the challenge. Unless, within 20 Business Days of the date of the challenge, the challenged Expert withdraws or whichever of the parties has not brought the challenge agrees to the challenge, the LCIA shall decide the challenge and, if appropriate, shall appoint a replacement Expert.

Procedure

- 11.7 The Application shall:
- (a) enclose a copy of this Deed and a brief statement describing the nature and circumstances of the matter to be determined; and
 - (b) be copied to the Scheme Creditor(s) who have requested that the matter be decided in accordance with this Clause 11 (*Expert Determination*) (or in the case of amounts owing under a Pre-Existing Funding Arrangement, whose asserted amount owing is disputed by LFSL) (the "**Affected Scheme Creditors**").
- 11.8 Within 20 Business Days of service of the Application, the Affected Scheme Creditor(s) shall send to the LCIA, with simultaneous copy to LFSL, a reply to any matters raised by LFSL in the Application (the "**Reply**").
- 11.9 LFSL and the Affected Scheme Creditors shall simultaneously provide to each other and the Expert written submissions ("**Submissions**") explaining their position to the Expert at 5.00pm (London time) on the date falling 20 Business Days after the Reply.
- 11.10 LFSL and the Affected Scheme Creditors shall simultaneously provide to each other and to the Expert written replies ("**Reply Submissions**") to each other's submissions at 5.00pm (London time) on the date falling 20 Business Days after the Submissions.
- 11.11 At the request of LFSL, an Affected Scheme Creditor, or the Expert, a meeting (a "**Meeting**") will be held at which:
- (a) LFSL and the Affected Scheme Creditors will have the opportunity to advance oral arguments in support of their position, and to challenge the position of the other party(ies); and
 - (b) the Expert will have the opportunity to ask questions.

- 11.12 Any request for a Meeting (a "**Meeting Request**") must be made in writing and served upon the Expert, LFSL, and the Affected Scheme Creditors (as applicable) within 10 Business Days of receipt of the Replies.
- 11.13 Unless LFSL and the Expert otherwise agree, or the Expert otherwise directs:
- (a) the Meeting shall be convened no sooner than 15 Business Days, and no later than 25 Business Days, after the date of the Meeting Request;
 - (b) the Meeting shall last no longer than one Business Day.
- 11.14 LFSL and the Affected Scheme Creditors shall consult reasonably and in good faith with a view to agreeing the venue, procedures, and timetable for any Meeting within 10 Business Days of the Meeting Request, with the Expert making the final determination.
- 11.15 The Expert shall endeavour to issue their decision within 20 Business Days of the Meeting (if a Meeting is convened), or within 20 Business Days of the Reply Submissions (if there is no Meeting), or as soon as reasonably practicable thereafter.
- 11.16 The decision of the Expert shall be accompanied by a written summary of their reasons.
- 11.17 The decision of the Expert shall (unless fraud or manifest error is shown by either/any of the Parties) be final and binding on LFSL and the Affected Scheme Creditors insofar as the law allows.

Costs

- 11.18 The LCIA's charges shall be in accordance with its schedule of arbitration fees and costs, as in force at the time of the Application. The Expert shall determine how the costs of any matter referred to expert determination in accordance with this Clause 11 (*Expert Determination*) should be paid.

Exclusion of Liability

- 11.19 None of the LCIA, the LCIA Court (including its President, Vice-Presidents and individual members), the Registrar, any deputy Registrar, or any Expert, acting pursuant to this paragraph shall be liable to any party howsoever for any act or omission in so acting, save where the act or omission is shown by any party to constitute conscious and deliberate wrongdoing committed by the body or person alleged to be liable to that party.

12. Miscellaneous

- 12.1 This Third Party Litigation Deed may be executed in any number of counterparts, and by each of the Parties on separate counterparts. Each counterpart is an original, but all counterparts shall together constitute one and the same instrument.
- 12.2 This Deed may be amended with the consent of (i) LFSL, (ii) the Scheme Supervisors, and (iii) those Scheme Creditors who collectively represent at least 75 per cent. of the value of the outstanding Scheme Claims and a majority in number of those Scheme Creditors who respond within 30 Business Days to an Amendment Request posted by LFSL on the Website.

- 12.3 Notwithstanding Clause 12.2 (*Miscellaneous*) above, this Deed may be amended:
- (a) in the case of amendments which are minor, technical, or serve solely to correct manifest error, by agreement in writing between LFSL and the Scheme Supervisors and notified to the Scheme Creditors;
 - (b) in the case of amendments which relate solely to the rights and/or obligations of the Scheme Supervisors, by agreement in writing between LFSL and the Scheme Supervisors and notified to the Scheme Creditors; and
 - (c) in the case of amendments which relate solely to the rights and/or obligations of LFSL and certain (but not all) Scheme Creditors, by agreement in writing between LFSL, the Scheme Supervisors, and those Scheme Creditors,
- provided that* an amendment that imposes a new obligation a Scheme Creditor or detrimentally affects a Scheme Creditor relative to the position of other similarly situated Scheme Creditors shall not be made without the consent of that Scheme Creditor.
- 12.4 Any Party may waive any of its rights against some or all of the other Parties in writing. Nothing in this Deed shall prevent LFSL from settling any dispute with any Scheme Creditor or any Third Party in relation to any matter on such terms as it may deem appropriate.
- 12.5 Save as follows, this Deed shall not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms. Notwithstanding the foregoing:
- (a) each Released Party may rely upon and enforce Clause 10 (*Releases*) as if it were a party hereto; and
 - (b) the LCIA, the LCIA Court (including its President, Vice-Presidents and individual members), the Registrar, any deputy Registrar, and any Expert may rely upon and enforce Clause 11 (*Expert Determination*) as if it were a party hereto.
- 12.6 The rights of the Parties to rescind or vary this Deed are not subject to the consent of any other person.
- 12.7 If any Scheme Supervisor resigns or is replaced in accordance with the Scheme, the outgoing Scheme Supervisor shall cease to be a Party and any incoming Scheme Supervisor shall execute a deed of accession in form and substance satisfactory to LFSL (acting reasonably), whereupon the incoming Scheme Supervisor shall be a Party.
13. **Termination**
- 13.1 This Deed will terminate automatically on the Termination Date.
- 13.2 With effect from the Termination Date, LFSL shall use all reasonable endeavours to:
- (a) return to the applicable Relevant Scheme Creditors all information, documents or other material provided by the applicable Relevant Scheme Creditor to LFSL pursuant to this Deed; and

- (b) pay the Proceeds standing to the credit of each Escrow Account to the applicable Relevant Scheme Creditors in full, and without any deduction.
- 13.3 Clauses 8 (*Confidentiality*), 13 (*Termination*) and 14 (*Governing law and jurisdiction*) shall survive termination of this Deed.
- 14. **Governing Law and Jurisdiction**
- 14.1 This Deed and any non-contractual obligations arising out of or in connection with it shall be governed by, and construed in accordance with, English law.
- 14.2 Save for matters which in accordance with this Deed are to be referred to Expert Determination, it is agreed that:
 - (a) the courts of England and Wales shall have exclusive jurisdiction to settle any dispute including a dispute relating to the non-contractual obligations arising out of or in connection with this Third Party Litigation Deed; and
 - (b) the courts of England and Wales are the most appropriate and convenient courts to settle any dispute in connection with this Third Party Litigation Deed. Each of the Parties irrevocably waives any right that they may have to object to an action being brought in those courts, to claim that the action has been brought in an inconvenient forum, or to claim that those courts do not have jurisdiction.
- 14.3 A dispute in connection with this Deed include any dispute as to the existence, validity or termination of this Deed.

SCHEDULE 1 FORM OF DEED OF TRUST

This Deed is made on the Effective Time, and is made

BETWEEN:

- (1) **THE PERSONS** listed in Appendix 1 (the "**Relevant Scheme Creditors**"); and
- (2) **LINK FUND SOLUTIONS LIMITED**, a private limited company with registered number 01146888 and whose registered address is 6th Floor 65 Gresham Street, London, United Kingdom, EC2V 7NQ ("**LFSL**"),

(together the "**Parties**").

RECITALS:

- (A) The Scheme was approved by the statutory majority of Scheme Creditors, was sanctioned by the Court, and became effective on the Effective Time.
- (B) Pursuant to the Scheme, LFSL, each of the Scheme Creditors and the Scheme Supervisors entered into the Third Party Litigation Deed. The Third Party Litigation Deed sets out the procedure to be followed by Scheme Creditors when commencing or continuing Third Party Proceedings. It is a condition of the Third Party Litigation Deed that any Scheme Creditor who commences or continues any Relevant Proceeding shall enter into a deed of trust with LFSL in respect of such Relevant Proceeding.
- (C) The Relevant Scheme Creditors have commenced or continued Proceedings against [*insert details of the Proceeding*] (the "**Specific Proceeding**"). The Specific Proceeding is a Relevant Proceeding.
- (D) The Parties have agreed to enter into this Deed of Trust in respect of the Specific Proceeding.

IT IS AGREED as follows:

1. **Definitions and construction**

1.1 In this Deed, the following terms have the following meanings:

"**Specific Proceeding**" has the meaning given to that term in Recital (C).

"**Termination Date**" has the meaning given to that term in the Scheme.

"**Third Party Litigation Deed**" means the third party litigation deed dated on the Effective Time between, amongst others, LFSL and the Scheme Creditors.

"**Trust**" means the trust declared by the Relevant Scheme Creditors pursuant to clause 2.1 (*Declaration of Trust*).

"**Trust Assets**" means the assets of the Trust.

"**Trustee Acts**" means, together, the Trustee Act 1925 and the Trust Act 2000.

- 1.2 Unless a contrary indication appears in this Deed of Trust, the provisions of clause 2 (*Construction and interpretation*) of the Third Party Litigation Deed shall apply to this Deed of Trust as if set out in full in this Deed of Trust with references to "this Deed" being treated as references to this Deed of Trust.
- 1.3 Unless the context otherwise requires or unless otherwise defined in this Deed of Trust, words and expressions defined in the Third Party Litigation Deed have the same meanings when used in this Deed of Trust.
2. **Declaration of Trust**
- 2.1 Each Relevant Scheme Creditors hereby declares a trust over all of its rights, title, and interest in and to the Specific Proceeding, including (without limitation) any Proceeds resulting from the Specific Proceeding, in favour of LFSL and itself.
- 2.2 The Relevant Scheme Creditors appoint LFSL, and LFSL hereby agrees, to act as trustee of the Trust.
3. **Application of Trust Assets**
- 3.1 LFSL, in its capacity as trustee of the Trust, shall apply the Trust Assets in accordance with clause 7.5 (*Application of Proceeds*) of the Third Party Litigation Deed only.
4. **Trustee Act**
- 4.1 The rights, powers, authorities and discretions given to the LFSL under or in connection with this Deed of Trust shall be supplemental to the Trustee Acts, and in addition to any rights, powers, authorities and discretions which may be vested in LFSL by law or regulation or otherwise.
- 4.2 Section 1 of the Trustee Act 2000 shall not apply to the duties of LFSL in relation to the Trust constituted by this Deed of Trust and is hereby excluded in accordance with Section 2 and Schedule 1, paragraph 7 of that Act. Where there are any inconsistencies between any Trustee Act and the provisions of this Deed of Trust, the provisions of this Deed of Trust shall, to the extent permitted by law and regulation, prevail and, in the case of any inconsistency with the Trustee Act 2000, the provisions of this Deed of Trust shall constitute a restriction or exclusion for the purposes of that Act.
5. **Dissolution of Trust**
- 5.1 On the date that LFSL has transferred, or procured the transfer of, all of the Proceeds standing to the credit of the Escrow Account in accordance with clause 7.5 (*Application of Proceeds*) of the Third Party Litigation Deed, the Trust shall be dissolved automatically and with immediate effect.
- 5.2 With effect from the date on which the Trust is dissolved pursuant to Clause 5.1 (*Dissolution of Trust*) LFSL shall have no further duties, responsibilities or obligations under this Scheme in respect of the Trust, save for such obligations as may have arisen prior to such winding up, which obligations have not as at the time of such winding up been fulfilled or discharged.
6. **Miscellaneous**

- 6.1 This Deed of Trust may be executed in any number of counterparts, and by each of the Parties on separate counterparts. Each counterpart is an original, but all counterparts shall together constitute one and the same instrument.
- 6.2 This Deed of Trust may be amended:
- (a) with the consent of LFSL and Relevant Scheme Creditors, or
 - (b) in the case of amendments which are minor, technical, or serve solely to correct manifest error, by LFSL, provided such amendment is notified by LFSL to the Relevant Scheme Creditors.
- 6.3 Any Party may waive any of its rights against some or all of the other Parties in writing. Nothing in this Deed shall prevent LFSL from settling any dispute with any Scheme Creditor or any Third Party in relation to any matter on such terms as it may deem appropriate.
- 6.4 This Deed of Trust shall not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms.
- 6.5 The rights of the Parties to rescind or vary this Deed of Trust are not subject to the consent of any other person.

7. Termination

- 7.1 The Trust will dissolve automatically on the Termination Date.
- 7.2 Following the termination of the Trust, LFSL will use all reasonable endeavours to return the Trust Assets to the Relevant Scheme Creditors in full, without any deduction.
- 7.3 Clauses 7 (*Termination*) and 8 (*Governing law and jurisdiction*) shall survive termination of this Deed.

8. Governing Law and Jurisdiction

- 8.1 This Deed of Trust and any non-contractual obligations arising out of or in connection with it shall be governed by, and construed in accordance with, English law.
- 8.2 It is agreed that:
- (a) the courts of England and Wales shall have exclusive jurisdiction to settle any dispute including a dispute relating to the non-contractual obligations arising out of or in connection with this Deed of Trust; and
 - (b) the courts of England and Wales are the most appropriate and convenient courts to settle any dispute in connection with this Deed of Trust. Each of the Parties irrevocably waives any right that they may have to object to an action being brought in those courts, to claim that the action has been brought in an inconvenient forum, or to claim that those courts do not have jurisdiction.
- 8.3 A dispute in connection with this Deed of Trust include any dispute as to the existence, validity or termination of this Deed.

THIS DEED OF TRUST HAS BEEN EXECUTED AND DELIVERED AS A DEED by:

LINK FUND SOLUTIONS LIMITED for and behalf of **THE RELEVANT SCHEME CREDITORS**

Name: _____

Title: _____

in the presence of

Name: _____

Title: _____

Address: _____

LINK FUND SOLUTIONS LIMITED

Name: _____

Title: _____

in the presence of

Name: _____

Title: _____

Address: _____

**THIS THIRD PARTY LITIGATION DEED HAS BEEN EXECUTED AND
DELIVERED AS A DEED** by:

LINK FUND SOLUTIONS LIMITED for and behalf of **THE SCHEME CREDITORS**

Name:	<u>Nigel Stephen Boyling</u>
Title:	<u>Director</u>
in the presence of	
Name:	<u>Rachel Frances Elizabeth Boyling</u>
Title:	<u></u>
Address:	<u>29 Blakes Way, Welwyn, Hertfordshire</u>

LINK FUND SOLUTIONS LIMITED

Name:	<u>Nigel Stephen Boyling</u>
Title:	<u>Director</u>
in the presence of	
Name:	<u>Rachel Frances Elizabeth Boyling</u>
Title:	<u></u>
Address:	<u>29 Blakes Way, Welwyn, Hertfordshire</u>

DAN SCHWARZMANN in his capacity as a Scheme Supervisor under (and as defined in) the Scheme



in the presence of

Name:

SUSAN JONES

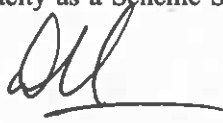
Title:

PERSONAL ASSISTANT.

Address:

1 ENSANKMART PLACE, LONDON WC2N 6RH

NIGEL RACKHAM in his capacity as a Scheme Supervisor under (and as defined in) the Scheme



in the presence of

Name:

Ralph George BAILEY CONAGIA

Title:

SENIOR MANAGER

Address:

PWC

7 MORE LONDON
CON DEN
SET 2RT.